

# Office Action Summary

**Application No.**

10/691,934

**Applicant(s)**

JENKINS, MAURICE A.

**Examiner**

Ljiljana (Lil) V. Ciric

**Art Unit**

3753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 1-9 and 15-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 10-14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Correspondence's Patent Drawing Review (PTO-845)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB-08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Election/Restrictions***

1. Applicant's election without traverse of the first species or the embodiment of paragraphs [0028] through [0031] as depicted in Figure 2 in the reply filed on January 30, 2006 is acknowledged.

However, claim 1 is NOT a generic claim (it was indicated as such due to an inadvertent typographical error in the election/restriction requirement made on November 29, 2000). The species or embodiment of Figure 2 has NO first thermometer substantially exposed to a gas flow in a heat exchanger since both of the thermometers in Figure 2 are isolated from the gas flow via the barrier. Therefore, only claims 10 through 14 are readable on the elected first species or the embodiment of Figure 2 and have been examined. The election/restriction requirement made on November 29, 2005 is otherwise correct and remains as is.

2. Claims 1 through 9 and 15 through 19 are hereby withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to the nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on January 30, 2006

***Ex Parte Quayle***

3. This application is in condition for allowance except for the following formal matters:

(A) The abstract of the disclosure is objected to because it (a) does not avoid using phrases which can be implied (i.e., "The present invention"); (b) does not avoid using legal terminology normally reserved for claims (i.e., "comprises"); (c) contains idiomatic and grammatical informalities (i.e., "Therefore a different in the temperature" should be replaced with "Therefore a difference in the temperature"); and (d) fails to summarize the structure of the elected/examined invention. Correction is required. See MPEP § 608.01(b).

(B) Claims 10 through 14 are objected to because of the following informalities: (a) "said first said first" [claim 10, line 5] should be replaced with "said first"; (b) "measure" [claim 10, line 6; claim 10, line 9] should be replaced with "measures"; (c) "said first said second" [claim 10, lines 8-9] should be replaced

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with “said second”; “temperature range” should be inserted immediately following “a predetermined threshold” [claim 10, line 14]; and, “1.5-12 C” [claim 12, line 2] should be replaced with “1.5 and 12 C”.

Appropriate correction is required.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

4. Examiner Ciric telephoned Attorney Eric C. Swanson on April 17, 2006 in order to resolve the above issues via telephone but he was unable to talk to her at the time about this matter and asked that a formal written communication be sent instead.

#### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ljiljana (Lil) V. Ciric whose telephone number is 571-272-4909. The examiner can normally be reached on Mondays through Fridays from 10:00 a.m. to 6:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Mancene, can be reached at 571-272-4930.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system.

Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

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Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ljiljana (Lil) V. Ciric  
Primary Examiner  
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